

by December 31 for each ensuing calendar year based on the schedules published from time to time as necessary in the FEDERAL REGISTER.

(6) Also, the right-of-way holder must submit a certified statement by October 15 of each year listing tenants in the facility and the category of use for each tenant as of September 30 of that year, and pay 25 percent of the schedule rent for the category of use. Tenants occupying space in the facility under terms of the holder's right-of-way authorization will not be required to have a separate BLM authorization.

(7) Other methods may be used to set rental payments for communication uses when the authorized officer determines one of the following:

(i) The holder is eligible for a waiver or reduction in rent in accordance with § 2803.1-2(b)(2);

(ii) Payment of the rent will cause undue hardship under § 2803.1-2(b)(2)(iv);

(iii) The original right-of-way authorization has been or will be issued pursuant to a competitive bidding process;

(iv) The State Director concurs in a determination made by the authorized officer that the expected rent exceeds the schedule rent by 5 times, or the communication site serves a population of 1 million or more and the expected rent for the communication use is more than \$10,000 above the schedule rent; or

(v) The communication facilities are ancillary to and authorized under a right-of-way grant for a linear facility. In such cases, rent for the associated communication facilities is to be determined in accordance with the linear fee schedule.

(e)(1) The rental for right-of-way grants and temporary use permits not covered by the right-of-way schedule in § 2803.1-2(d)(5) will be determined by the authorized officer and paid annually in advance. Rental for communication site rights-of-way not covered by the schedule, except those issued pursuant to Section 28 of the Mineral Leasing Act (30 U.S.C. 185), will be based on comparative market surveys, appraisals, or other reasonable methods. All such rental determinations shall be documented, supported, and approved

by the authorized officer. Where the authorized officer determines that a competitive interest exists for site type right-of-way grants such as for wind farms, communication sites, etc., rental may be determined through competitive bidding procedures set out in § 2803.1-3.

(2) To expedite the processing of any grant or permit covered by paragraph (e)(1) of this section, the authorized officer may estimate rental and collect a deposit in advance with the agreement that upon completion of a rental value determination, the advance deposit will be adjusted according to the final fair market rental value determination.

(f) Decisions on rental determinations are subject to appeal under subpart 2804 of this title.

(g) Upon the holder's written request, rentals may be prepaid for 5 years in advance.

(h) If the rental required by this section is not paid when due, and such default for nonpayment continues for 30 days after notice, action may be taken to terminate the right-of-way grant or temporary use permit. After default has occurred, no structures, buildings or other equipment may be removed from the subservient lands except upon written permission from the authorized officer.

[52 FR 25818, July 8, 1987; 52 FR 36576, Sept. 30, 1987, as amended at 60 FR 57070, Nov. 13, 1995]

### § 2803.1-3 Competitive bidding.

(a) The authorized officer may identify and offer public lands for competitive right-of-way use either on his/her own motion or as a result of nomination by the public. Competitive bidding shall be used only for site-type right-of-way grants such as wind farms and communication sites. The authorized officer shall give public notice of such decision through publication of a notice of realty action as provided in paragraph (c)(1) of this section. The decision to offer public lands for competitive right-of-way use shall conform to the requirements of the Bureau's land use planning process. The authorized officer shall not offer public lands for competitive right-of-way use where equities such as prior or related use of